

Application No.: 10/725794
Amendment dated: April 26, 2005
Reply to Office action of January 26, 2005

REMARKS/ARGUMENTS

Claims 3, 6-8 and 11, which were considered allowable, have been rewritten in independent form, including the limitations of the base claim and any intervening claims. Claim 4, which was also allowable, has been made dependent on claim 3, with deletion of redundant matter.

Claim 1, which recites that the flanges extend in opposite directions from the intermediate portion, has been amended to add language requiring that "each of the flanges has an outer edge oblique relative to said intermediate portion, whereby each flange is tapered."

Fulton has an oblique edge on the pie lifting portion 10, but no oblique edge or taper on the handle-engaging parts 12 and 13. The Pollard invention is a carton assembly for presliced pastry, in which each individual slice is held in a U-shaped server having the configuration seen in FIG. 2. Pollard describes individual servers in which, as shown in Pollard's FIG. 2, tapered flaps extend in the same direction from an upright panel, one underlying the individual serving, and the other overlying the same serving. Each server, with the serving contained in it, is encased in a flexible wrapping of transparent film. (See Pollard, column 3, lines 27-36.) The servings are removed individually while in their wrapped servers. Reconfiguring the Pollard servers to a Z-shape would make it impossible as a practical matter to encase the server in a transparent wrapping, and consequently, such a reconfiguration would be an unwarranted reconstruction, completely changing the nature and purpose of the Pollard invention. Neither Pollard itself, nor other art such as

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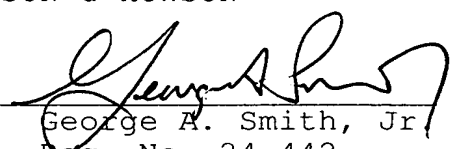
Fulton or Montesi, would have supplied the motivation to fold Pollard's servers into a Z-shape instead of a U-shape. Therefore, the applicant respectfully submits that claim 1, as amended, defines subject matter that is not shown to have been obvious by Pollard, or any combination of the references of record.

Dependent claim 5 has been modified for consistency with the amended version of claim 1. Claims 2, 9, 10 and 12, which are dependent, either directly or indirectly on claim 1, have not been amended, and should be found allowable if claim 1 is found allowable. New claim 16, which is dependent on claim 1, should be found allowable for the additional reason that it calls for tapering of the first and second flanges in opposite directions, a feature also nowhere suggested in the prior art.

Favorable reconsideration and allowance of this application are requested.

Respectfully submitted,
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